

June 14, 2017

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Notice of Cancellation of Service Agreement No. 2090 to the New York Independent System Operator, Inc. Open Access Transmission Tariff, Docket No. ER17-____-000

Dear Secretary Bose:

Pursuant to Section 205(d) of the Federal Power Act¹ and Sections 35.9 and 35.15 of the Commission's Regulations,² the New York Independent System Operator, Inc. ("NYISO") hereby tenders for filing and acceptance a Notice of Cancellation of a Small Generator Interconnection Agreement among the NYISO, New York State Electric & Gas Corporation ("NYSEG" or "Connecting Transmission Owner") as the Connecting Transmission Owner, and Monticello Hills Wind LLC ("Monticello" or "Interconnection Customer") as the Interconnection Customer (hereinafter the "SGIA").³ The SGIA is a conforming agreement designated as Service Agreement No. 2090 in the NYISO's Open Access Transmission Tariff ("OATT") and relates to the Interconnection Request referred to as Queue Number 362.⁴

While this SGIA is a conforming agreement and was therefore not filed with the Commission, the NYISO tenders this Notice of Cancellation for filing and acceptance out of an abundance of caution based on the NYISO's and the Connecting Transmission Owner's understanding that the Interconnection Customer does not agree with the withdrawal of its Interconnection Request that prompted this Notice of Cancellation. Pursuant to Sections 3.3.2 and 7.6.3 of the SGIA, the NYISO and NYSEG respectfully request that the Commission accept

¹ 16 U.S.C. § 824d (2017).

² 18 C.F.R. §§ 35.9, 35.15 (2017).

³ Capitalized terms not otherwise defined in this letter have the meaning set forth in Attachments X and Z to the NYISO's Open Access Transmission Tariff ("OATT").

⁴ A copy of the SGIA is attached as Attachment II.

this Notice of Cancellation of Service Agreement No. 2090 effective as of August 14, 2017 – the first business day following sixty days from the date of this filing.

I. Background

This Notice of Cancellation comes after significant delays by the Interconnection Customer in the development of the proposed generating facility without reasonable progress on meeting the milestones set forth in the SGIA. Monticello entered the NYISO's interconnection queue in 2011 with a proposed wind generating facility that would have a planned capacity of 19.8 MW to be owned and operated by Monticello and located in Otsego County, New York ("Monticello Hills Project"). The Monticello Hills Project went through the NYISO's Small Generator Interconnection Procedures ("SGIP") with the designated Queue Number 362. The Interconnection Facilities Study was completed pursuant to the SGIP on November 29, 2012. Thereafter, the SGIA was tendered on March 18, 2013, and the parties executed it on September 19, 2014. The SGIA was a conforming agreement and designated as Service Agreement No. 2090 in the NYISO's OATT.

Based on Monticello's representations, the Monticello Hills Project has not commenced construction and none of the milestones set forth in Attachment 4 to the SGIA have been satisfied as of the date of this filing. According to the original milestones under the SGIA, the Monticello Hills Project was to be in commercial operation by December 2016.

On July 30, 2015, Monticello requested an extension of the Commercial Operation Date to December 2017. The NYISO explained that the SGIP only permitted an extension to March 18, 2017 and that an extension beyond such date would require Monticello to demonstrate that the project has made reasonable progress against the milestones set forth under the SGIA. The NYISO approved the extension of the Commercial Operation Date until March 18, 2017, which was the maximum allowable extension without Monticello demonstrating reasonable progress against its SGIA milestones.

In November 2016, Monticello requested another extension seeking a Commercial Operation Date of December 2018. The NYISO reiterated the requirements under the SGIP for a project to extend the Commercial Operation Date past March 18, 2017, and denied the request due to a lack of sufficient evidence that the project made reasonable progress against its SGIA milestones.

In February 2017, Monticello renewed its request for an extension of the project's Commercial Operation Date to December 2018. The NYISO again denied the extension on March 3, 2017 due to Monticello's inability to satisfy the requirements under the SGIP for extending the Commercial Operation Date. After failing to meet its Commercial Operation Date

of March 18, 2017, the NYISO tendered a withdrawal notice to Monticello, removing the Monticello Hills Project from the interconnection queue.⁵

II. Notice of Cancellation

Commission precedent supports acceptance of a notice of cancellation of a service agreement if the applicant shows that the proposed cancellation is not unjust, unreasonable, unduly discriminatory, or preferential, or if it is consistent with public interest.⁶ Pursuant to this standard, the Commission should accept this Notice of Cancellation of Service Agreement No. 2090 because Monticello's Interconnection Request was properly withdrawn pursuant to Commission-approved tariff requirements set forth in Section 32.1.3.2 of Attachment Z to the OATT with respect to its requested extension of the Commercial Operation Date beyond March 18, 2017.

An Interconnection Customer of a proposed small generation facility that wishes to extend the Commercial Operation Date must comply with the provisions contained in the NYISO's Small Generator Interconnection Procedures under Attachment Z to the OATT.⁷ Section 32.1.3.2 of Attachment Z refers to the requirements in Section 30.4.4.5 of Attachment X that specify permissible extensions of Commercial Operation Date. A Small Generating Facility such as the Monticello Hills Project may extend its Commercial Operation Date up to four years following the tender of its Interconnection Agreement, but extensions beyond such date are only permitted if the project developer: (a) has an executed Interconnection Agreement (or filed an unexecuted agreement with the Commission) and (b) demonstrates through an officer certification that the project has made "reasonable progress against milestones set forth in the Interconnection Agreement."⁸ Any request for an extension that does not satisfy the conditions set forth in Section 30.4.4.5.2 of Attachment X requires withdrawal from the NYISO's interconnection queue.⁹

Under Section 7.6.3 of the SGIA, "if the Interconnection Request is withdrawn or deemed withdrawn pursuant to the SGIP during the term of th[e] Agreement, th[e] Agreement shall terminate."¹⁰ Termination of an SGIA will become effective after the parties have complied with "all Applicable Laws and Regulations applicable to such termination, including

⁵ See Section 30.4.4.5 of Attachment X to the OATT; Section 32.1.3.2 of Attachment Z to the OATT; *see generally New York Indep. Sys. Operator, Inc.*, 142 FERC ¶ 61,113 (2013).

⁶ *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,198 (2014), at P 28 (citing Commission precedent).

⁷ Section 32.1.3.2 of Attachment Z to the OATT.

⁸ Section 30.4.4.5.2 of Attachment X to the OATT.

⁹ Section 32.1.4 of Attachment Z to the OATT.

¹⁰ Section 3.3.2 of the SGIA (stating that any party may terminate the SGIA after default pursuant to Article 7.6).

the filing with the Commission of a notice of cancellation of the SGIA (if required), which notice has been accepted for filing by the Commission.”¹¹

In response to Monticello’s multiple requests for extensions past March 17, 2017, the NYISO on multiple occasions beginning in August 2015 detailed the requirements under the SGIP to grant an extension of the Commercial Operation Date. At the time that Monticello made its latest request to extend the Commercial Operation Date, Monticello was on notice for over a year and half of the requirements that the project needed to meet in order to obtain an extension. While Monticello reported completing the Point of Interconnection (“POI”) conceptual package, it acknowledged that it never delivered the conceptual package to NYSEG and did not post any of the required security per the milestones. As a result, it was clear to the NYISO and NYSEG that Monticello had not provided evidence of progress against the milestones set forth in the SGIA. As a result, the NYISO denied Monticello’s request for an extension on March 3, 2017.

The NYISO issued a withdrawal notice to Monticello Hills (provided in Attachment III) on April 19, 2017 due to Monticello’s failure to make the requisite demonstration pursuant to Section 30.4.4.5.2.2 that it has made reasonable progress against milestones set forth in the SGIA and failure to meet its Commercial Operation Date. The NYISO and NYSEG submit that Monticello Hills Project’s failure to meet any of the milestones under the SGIA and to demonstrate any reasonable progress during the previous extension of the Commercial Operation Date is indicative of a lack of readiness and certainty that the project will be able to meet any further extensions of the Commercial Operation Date.

III. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

1. Notice of Cancellation of Service Agreement No. 2090 (Attachment I);
2. Service Agreement No. 2090 (Attachment II); and
3. Notice of Withdrawal dated April 19, 2017 (Attachment III).

IV. Communications and Correspondence

All communications and service in this proceeding should be directed to:

For the NYISO

Robert E. Fernandez, General Counsel
Raymond Stalter, Director, Regulatory Affairs
*Sara B. Keegan, Senior Attorney
*Brian R. Hodgdon, Attorney

¹¹ Section 3.3 of the SGIA.

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V. Effective Date

Pursuant to Section 3.3 of the SGIA, the NYISO and NYSEG respectfully request that the Commission accept this Notice of Cancellation of Service Agreement No. 2090, effective August 14, 2017 – the first business day following sixty days from the date of this filing.

VI. Service

In addition to the representatives of NYSEG and Monticello designated above for receipt of service, the NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

VII. Conclusion

For the reasons stated above, the NYISO and NYSEG respectfully request that the Commission accept this Notice of Cancellation of Service Agreement No. 2090, effective August 14, 2017.

Respectfully submitted,

/s/ Sara B. Keegan
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